



---

## Appeal Decision

Site visit made on 14 January 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> February 2025

---

**Appeal Ref: APP/N4720/W/24/3351062**

**Land Adjacent 14 Belle Vue Avenue, Roundhay, Leeds LS8 2NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ingenious Property Refurbishment Ltd against the decision of Leeds City Council.
  - The application Ref is 23/07293/FU.
  - The development proposed is demolition of existing garages and the erection of 1 no. residential dwelling with associated access and infrastructure.
- 

### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garages and the erection of 1 no. residential dwelling with associated access and infrastructure at Land Adjacent 14 Belle Vue Avenue, Leeds, LS8 2NN in accordance with the terms of the application, Ref 23/07293/FU, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.
3. A revised Aboricultural Survey, second survey and Aboricultural Impact Assessment has been submitted as part of the appeal. The reports were submitted in response to the Council's concerns that those presented with the planning application were out of date. As the updated reports provide additional information, I do not consider that they are a substantive change to the proposal. The Council has submitted comments in response to this information and therefore I do not consider that any party would be prejudiced by my taking it into account and therefore have considered the updated information.
4. There was a previous appeal Decision APP/N4720/W/22/3299484 (previous appeal) which in accordance with case law is a material consideration as it is necessary to have consistency in decision making.

### Main Issues

5. The main issues are the effect of the proposed development on:
  - the character and appearance of the site and surrounding area, including its effect on trees; and

- the biodiversity at the site.

## Reasons

### *Character and appearance*

6. The appeal site is located at the end of a tree-lined residential road. The site is overgrown with vegetation and sits at a lower level to that of the road. It currently contains two garages with hardstanding to the front, which is used for parking and bin storage. The site adjoins a two-storey detached house and the rear garden of a house which faces onto Easterly Road (A58). The trees to the front of the appeal site and adjoining 14 Belle Vue Avenue are tall and mature. The proximity and height of the trees provide the appeal site with a sense of enclosure.
7. One side of Belle Vue Avenue is characterised by Edwardian style dwellings whilst the other side where the appeal site is located comprises a mix of more modern detached and semi-detached houses of various architectural styles. The trees around the appeal site give the street a verdant appearance and are a key feature which contribute positively to the character of the area.
8. The proposed dwelling would have a staggered front elevation and single point of vehicle access. It would be positioned close to four mature trees located within the pavement to the front of the appeal site (T1, T2 and T3). These trees are protected by the City of Leeds Tree Preservation Order (No. 3) 2021: [TPO2021\_03] (TPO). The TPO confirmation is before me and therefore the validity of the TPO is not in doubt. There are three further trees to the side of 14 Belle Vue Avenue (T4, T5 and T6), outside of the appeal site. A further tree is located towards the rear of the site (T7) but is proposed for removal as part of the scheme.
9. Policy H2 a) of the Leeds Core Strategy (2019) (CS) states that greenfield land should not be developed if it has intrinsic value as amenity space, or for nature conservation, or makes a valuable contribution to the visual, historic and/or visual spatial character of an area. Although part of the appeal site is previously developed land (PDL) where garages and hardstanding are located, the site also includes some greenfield land.
10. The Guideline Distances from Development to Trees Document (updated March 2011, revised February 2021) (LTG) provides guidance to ensure sufficient space is allowed around buildings to enable trees to be sustainably retained in a healthy condition, by avoiding damage to roots and branches. This guidance recommends standoff distances dependent on the tree species. Although this has not been subject to consultation it is informal guidance which is a material consideration. Trees T3-T6 meet these minimum distances, however, both T1 and T2 are significantly closer to the proposed dwelling than the LTG distances.
11. An Arboricultural Survey Report - Revision T, (2023)<sup>1</sup> (AR1) has been prepared to assess the quality of trees around the site and determine the extent of the Root Protection Areas (RPA). As part of this a tree survey was undertaken in 2019 which concluded that T1 was category C2 (low quality, mainly landscape value), T2 and T3 as A2 (high quality, mainly landscape value) and T4, T5, T6 and T7 as B2 (moderate quality, mainly landscape value). The site was revisited in 2021 in order to re-inspect the health and condition of T1 an Ash tree.

---

<sup>1</sup> Prepared by Smeeden Foreman

12. The proposal differs from that of the previous appeal in that it was for the erection of 2 detached dwellings. Although the proposed building line has been moved further away from trees T5 and T6 a greater amount of the dwelling would be located closer to T1 and T2, the protected trees, than the previous appeal. However, it would still be outside of the canopy spread of all these trees, which reduces pressure for pruning. The building line of the proposed dwelling would broadly follow that of other dwellings along the street, with similar standoff distances between protected trees along the road.
13. AR1 includes a Shadow Diagram (drawing No. SF3004), which shows that the site is free from shadow at 9am and 12pm, whilst trees T4, T5 and T6 cast a shadow across almost all of the site by 5pm. Therefore, for a large proportion of the day the tree shadow would not affect the proposed dwelling and garden. Although the shadow drawings are only shown for June, this is likely to be when the tree canopy is most dense, with more light passing through during winter months.
14. The revised Arboricultural Impact Assessment<sup>2</sup> (2024) (AR2) has taken into account the proposed layout of the new dwelling. This assessment uses different tree references to that of AR1, however for ease of reference I retain those used in AR1. This assessment also concludes that the proposed dwelling would be located outside of the tree canopies and due to the location of trees issues related to shading are unlikely. There is agreement between both surveys that T1 and T2 have reached a level of maturity where the canopy will not extend much further into the appeal site.
15. Based on this evidence I am therefore satisfied the dwelling would benefit from good levels of sunlight and there would not be pressure to prune or fell trees in the future due to overshadowing. Furthermore, trees T1, T2 and T3 are protected through the TPO and therefore permission would be necessary for any pruning.
16. The Arboricultural Impact Assessment Plan (drawing No A/A01) contained in AR1 shows that the footprint of the proposed dwelling would be outside of the RPA of all the trees. The proposed hardstanding area would cover a small proportion of approximately 4% of the RPA of T2, whilst the proposed footpath would be constructed on the outer edge of the RPA of T1. The revised assessment AR2 concludes that the proposed driveway encroaches the outer RPA of T5 and therefore root pruning would be necessary.
17. The Tree Protection Plan (drawing No TPP01) included in AR1 proposed that the formation of the footpath would be no-dig and designed to minimise the impact on the RPA. Furthermore, the proposal would replace the existing concrete slab in front of the garages with a cellular confinement system, which would provide a better rooting environment.
18. The Council's Landscape Officer has raised concerns that the information submitted as part of the appeal does not reflect the likely rooting area, which would have been redistributed as a result of the road construction. The appellant submitted a revised Tree Constraints Plan (dated 22/10/24) which shows T1, T2, T7, T8 and T9 off set to accommodate the road to address these concerns but concludes that this does not alter the extent of the RPAs and the potential harm from the proposal.

---

<sup>2</sup> JCA Arboricultural & Ecological Consultants Ltd

19. Both AR1 and AR2 broadly agree with the conditions of the existing trees and conclude that the proposal could be implemented without having long-term impact on the health of the trees. The successful retention of trees is dependent on high quality site management during the construction phase. I am satisfied that drawing TPP01 in AR1 identifies that construction can be carefully managed to avoid harmful incursion into the RPA and that this could be secured through an appropriate condition. Provided that the conditions are properly adhered to and enforced the construction work would not cause significant risk to long term viability of the protected trees.
20. Accordingly, I conclude that the proposal would not have an adverse impact on important trees and therefore would not harm the character and appearance of the site and surrounding area. It would thereby comply with policies H2, P10 and P12 of the CS and saved policies GP5 and LD1 of the Unitary Development Plan (Review 2006). Together, these policies amongst other things seek to deliver high quality design which conserves and enhances the character and quality of Leeds' townscapes.

### *Biodiversity*

21. Policy G9 of the CS requires development to demonstrate an overall net gain for biodiversity which is commensurate with the scale of a proposed development including a positive contribution to the habitat network.
22. Part of the appeal site is occupied by garages and hardstanding and part comprises natural vegetation. No specific evidence including a Biodiversity Net Gain metric has been submitted to demonstrate how a net gain in biodiversity would be delivered. However, the appellant confirms a willingness to accept an appropriately worded condition in relation to provision of bat and Swift boxes through the submission of a Biodiversity Enhancement and Management Plan.
23. Since the application was submitted the mandatory requirements for developers to deliver a biodiversity net gain (BNG) of 10% has come into force. Although this does not apply to existing applications, it is recognised that conditions to secure BNG are appropriate. I am therefore satisfied that appropriate BNG could be achieved subject to an appropriately worded condition.
24. Therefore, the proposal would not conflict with policy G9 of the CS, which seeks amongst other things to ensure that development demonstrates an overall net gain of biodiversity.

### **Conditions**

25. I have considered the Council's suggested conditions and where appropriate amended the wording to more closely align with the Planning Practice Guidance. I have also reviewed the comments of the appellant in relation to the Council's proposed conditions.
26. In order to meet legislative requirements, a condition shall be imposed to address the period for commencement (1). I have imposed a condition relating to approved plans for the avoidance of doubt (2), approved materials and boundary treatments (3 and 4) to protect the character and appearance of the area.
27. A condition is necessary to ensure the free and safe use of the highway, promote sustainable travel and low carbon transport (5, 6, 7 and 8).

- 28. A condition is necessary to ensure the site is suitable for use in relation to contamination (9).
- 29. Although landscaping conditions (10, 11, 12) are necessary to ensure appropriate landscaping is provided and to protect trees, I do not consider that it is necessary for further plans to be submitted to the Council as plans have been submitted as part of the application which address these matters.
- 30. A condition is required (13) to ensure that a net gain in biodiversity is achieved.

**Conclusion**

- 31. For the reasons given above the appeal should be allowed.

*C Skelly*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. 3324-DEN-ZZ-XX-DR-A-1200, 3224-DEN-ZZ-XX-DR-A-1201 Rev A, 3224-DEN-ZZ-XX-DR-A-1200, 3224-DEN-A-ZZ-DR-A-2200, 3224-DEN-A-ZZ-DR-A-4202 Rev A, 3224-DEN-ZZ-XX-DR-A-4204 Rev A, 3224-DEN-ZZ-XX-DR-A-4205 Rev A, 3224-DEN-ZZ-XX-DR-A-9200 Rev A, SGS-WB-001 Rev C, AIA01 Rev O, TC01 Rev D, TPP01 Rev O, SGS-IG-003, Coal Mining Risk Assessment, Site Investigation Report, Aboricultural Report – Revision T (2023), Cellweb Tree Root Protection Information and Level 3 Assessment of Trees, Aboricultural Impact Assessment (2024).
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the occupation of the development hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as in accordance with the approved details before the building is occupied.
- 5) Development shall not be occupied until all areas shown on the approved plans to be used by vehicles, including roads, footpaths, cycletracks, loading and servicing areas and vehicle parking spaces have been fully laid out, surfaced and drained such that loose materials and surface water does not discharge or transfer onto the highway. These areas shall not be used for any other purpose thereafter.
- 6) Notwithstanding the approved details, works above the ground floor slab level shall not commence until full details of cycle/motorcycle parking and facilities have been submitted to and approved in writing by the Local Planning Authority. The approved cycle/motorcycle parking and facilities shall be provided prior to first occupation of the development and retained thereafter for the lifetime of the development.
- 7) Development shall not be occupied until Electric Vehicle Charging Points have been provided in accordance with a scheme that shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained for the lifetime of the development.
- 8) Works above the ground floor slab level shall not commence until construction details of the proposed footway crossings [and/or reinstatement to full height footway of any redundant existing crossings] along the site frontage have been submitted to and approved in writing by the Local Planning Authority. The crossings [and/or reinstatements] must be constructed in accordance with the

approved details and be fully implemented prior to occupation of the development.

- 9) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
- i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
  - ii. the site has been remediated in accordance with the approved measures and timescale; and
  - iii. a verification report has been submitted to and approved in writing by the local planning authority.
- If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
- i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
  - ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 10) The development hereby permitted shall not be occupied until full details of both hard and soft landscape works, including an implementation programme, have been submitted to and approved in writing by the Local Planning Authority. Hard landscape works shall include
- (a) proposed finished levels and/or contours,
  - (b) boundary details, means of enclosure and retaining structures,
  - (c) car parking layouts,
  - (d) other vehicle and pedestrian access and circulation areas,
  - (e) hard surfacing areas,
  - (f) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.),
- Soft landscape works shall include
- (h) planting plans
  - (i) written specifications (including soil depths, cultivation and other operations associated with plant and grass establishment) and
  - j) schedules of plants noting species, planting sizes and proposed numbers/densities.

Soft landscape works shall include

- (h) planting plans
- (i) written specifications (including soil depths, cultivation and other operations associated with plant and grass establishment) and
- j) schedules of plants noting species, planting sizes and proposed numbers/densities.

- 11) All hard and soft landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS 4428:1989 Code of Practice for General Landscape Operations. The developer shall complete the approved landscaping works and confirm this in writing to the Local Planning Authority prior to the date agreed in the implementation programme.
- 12) No works shall commence (including any demolition, site clearance, ground works or drainage etc.) until all existing trees, hedges and vegetation shown to be retained on the approved plans are fully safeguarded by protective fencing and ground protection in accordance with approved plans, and the specifications and the provisions of British Standard 5837 (2012) Trees in relation to design, demolition and construction, unless otherwise agreed in writing by the Local Planning Authority. Such measures shall be retained for the full duration of any demolition and/or approved works. Evidence shall be submitted, such as a written appointment (including site specifics) that confirms that a qualified Arboriculturist/competent person has been appointed to carry out this Arboricultural supervision. Seven days written notice shall be given to the Local Planning Authority that the protection measures are in place prior to demolition/ approved works commencing, to allow inspection and approval of the protection measures as implemented on site.
- 13) Prior to the occupation of the development hereby approved, a Biodiversity Net Gain Plan setting out the measures that will provide net biodiversity gains shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Biodiversity Net Gain Plan and any timescales therein.

End of Schedule